

REMARKS

Claims 1 and 29 – 41 are pending in the instant application and subject to restriction. Claim 33 has been amended to correct an obvious typographical error, and support for this amendment may be found in Figure 7. Applicants thank the Examiner for identifying this inadvertent error and suggesting correction. No new matter has been added. Attached hereto as an Appendix, captioned “Version with markings to show changes made,” is a marked-up version of the changes made to the claims by the amendments presented herein.

The outstanding Office Action has required restriction of the claims to one of the following seven groups:

- I. Claims (none), drawn to purines*
- II. Claims (none), drawn to imidazopyridines*
- III. Claims (none), drawn to pyrrolopyrimidines*
- IV. Claims (none), drawn to triazolopyrimidines*
- V. Claims (none), drawn to pyrimidines*
- VI. Claims (none), drawn to 1,2,4-triazines*
- VII. Claims (none), drawn to others*

In order to comply with the outstanding requirement, Applicants **hereby elect group I, drawn to purines**. However, Applicants make this election **under protest and wish to traverse** the present restriction requirement.

The Office Action states that these are distinct inventions because each group has a “separate and distinct heterocycle core.” Applicants respectfully submit that, notwithstanding any distinctness of the groups listed above, a search of the prior art respecting the pending claims will not be a substantial burden. In this regard, Applicants respectfully direct Examiner to M.P.E.P. § 803, which states that “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.”

In particular, Applicants note that the chemical compounds of the invention contain a hydroxymethylcyclopropylidenemethyl group. This group substantially directs the search of the prior art. Applicants respectfully submit that the search of the prior art need not be as extensive all of the

heterocyclic art as the Office Action implies. Instead, the search may be focused around hydroxymethylcyclopropylidenemethyl-heterocycles, a considerably more narrow search than the scope of all possible heterocycles.

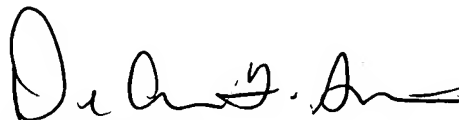
Furthermore, the present restriction is inconsistent with the restriction requirement issued in the parent application, U.S. 09/267,839 (now U.S. 6,352,991). In this prior application, claims were presented that were directed to hydroxymethylcyclopropylidenemethyl-heterocycles in a similar manner as the claims subject to the present restriction requirement. These claims were not restricted to one particular heterocycle and Applicants suggest that the same should apply to the present claims. In fact, the claims of the parent application were fully searched respecting these chemical compounds, and it would appear that those search results would be applicable to the present claims. As at least a partial search of the prior art has already been carried out by Examiner respecting these compounds, the search burden for the present application is all the less.

As the pending claims should not present a substantial search burden for the Examiner, and because at least a partial search of the prior art has already been carried out by the Examiner, reconsideration of the instant restriction requirement is respectfully and earnestly sought.

If there are any questions regarding the proposed amendments to the application, we invite the Examiner to call Applicants' representative at the telephone number below.

Respectfully submitted,

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**APPENDIX**

**Version with markings to show changes made**

33. (Amended) An antiviral compound selected from the group consisting of methyl phenyl-phosphoro-L-alaninate of syn - N<sup>9</sup> - (2 - hydroxymethylcyclopropylidenemethyl) adenine, methyl phenyl-phosphoro-L-alaninate of anti-N<sup>2</sup>-(2-hydroxymethylcyclopropylidenemethyl) adenine and pharmaceutically acceptable salts, and prodrugs, thereof.